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HUMAN RIGHTS COMMITTEE

Fifty-third session

SUMMARY RECORD OF THE 1387th MEETING

Held at Headquarters, New York,
on Monday, 20 March 1995, at 10.30 a.m.

Temporary Chairman: Mrs. KLEIN

Chairman: Mr. AGUILAR

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The meeting was called to order at 10.55 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

1. The TEMPORARY CHAIRMAN declared open the fifty-third session of the Human Rights Committee.

2. Speaking on behalf of the Secretary-General, she reported on various human rights activities of special interest that had taken place since the Committee's previous session. The General Assembly, at its forty-ninth session, had adopted several resolutions relating to human rights, including resolution 49/178 on the effective implementation of international instruments on human rights, in which it had noted with appreciation the initiatives taken by treaty bodies to elaborate early-warning measures and urgent procedures with a view to preventing the occurrence of serious human rights violations. It had also encouraged treaty bodies to monitor closely the enjoyment by women of their human rights and recommended that gender-specific information be requested from States parties. In addition, the Assembly had agreed to a recommendation that the meetings of persons chairing the human rights treaty bodies should be held on an annual basis as from 1995.

3. At its fifty-first session, the Commission on Human Rights had urged States parties to take into account the observations made at the conclusion of the consideration of their reports by the Committee and had invited them to review periodically any reservations they had made in respect of the provisions of the Covenant with a view to their eventual withdrawal. In its resolution on the effective implementation of international human rights instruments, the Commission had invited the treaty bodies to bring situations of massive human rights violations to the attention of the High Commissioner for Human Rights, who, in turn, was requested to coordinate and consult throughout the United Nations system in that regard. Concerning the question of the succession of States in respect of international human rights treaties, the Commission called on successor States to confirm to the appropriate depositaries that they continued to be bound by their obligations under international human rights treaties.

4. Members would recall that the Working Group on Detention had been established by the Commission to investigate cases of detention imposed arbitrarily or in a manner inconsistent with relevant international instruments and standards. In its report, the Working Group had expressed regret that it had received replies regarding only about 30 per cent of individual cases transmitted to Governments. In the circumstances, the Working Group relied largely on information provided by non-governmental organizations. The Working Group had also conducted its first two in situ missions in Bhutan and Viet Nam, enabling it to verify the lawfulness of detention on a case-by-case basis and in terms of normative aspects and practical implementation.

5. The Committee on Economic, Social and Cultural Rights had adopted a general comment on persons with disabilities, for which general comment No. 18 of the Human Rights Committee had served as a useful point of reference. The topic of its one-day general discussion of a particular aspect of the Covenant had been

the right to education, in the context of the Decade for Human Rights Education. Furthermore, the Government of Panama had accepted the Committee's offer to send a mission to provide assistance with regard to the implementation of the right to housing.

6. At its thirteenth session, the Committee against Torture had dealt with an increasing number of communications concerning article 3 of the Convention against Torture, prohibiting the return of a person to a country where the person would face a substantiated risk of being tortured. The Committee had adopted views in a case where a deportation order had been issued and where it had felt that the individual should not be forcibly returned. At its session in January 1995, the Committee on the Rights of the Child had given special attention to the protection and promotion of the rights of the girl child. In addition, by its resolution 49/211, the General Assembly had approved the recommendation to increase to three the number of annual sessions of the Committee beginning in 1995. The Convention had been ratified by 170 States.

7. At its session held in early 1995, the Committee on the Elimination of Discrimination against Women had decided to request the Secretary-General to move the Committee's meetings from New York to Geneva, with servicing to be provided by the Centre for Human Rights. That decision, taken with a view to integrating women's human rights into the mainstream of the United Nations treaty bodies, was in direct response to the Vienna Declaration and Programme of Action, which recognized that the human rights of women were an inalienable, integral and indivisible part of universal human rights.

8. Finally, with a view to making the Centre's activities more efficient and bringing them into line with both the Vienna Declaration and Programme of Action and the mandate of the High Commissioner, the Centre was in the process of developing proposals for the restructuring of its programme of work.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE IN ACCORDANCE WITH ARTICLE 38 OF THE COVENANT

9. Mr. Ando, Mr. Buergenthal, Mr. El Shafei, Mr. Klein, Mr. Kretzmer, Mrs. Medina Quiroga and Mr. Prado Vallejo made a solemn declaration that they would perform their functions impartially and conscientiously.

ELECTION OF THE CHAIRMAN AND OTHER OFFICERS OF THE COMMITTEE

10. Mr. ANDO nominated Mr. Aguilar for the office of Chairman, and Mr. Bán and Mr. El Shafei for two offices of Vice-Chairmen. He proposed that the election of the third Vice-Chairman and the Rapporteur should be deferred.

11. Mr. Aguilar was elected Chairman and Mr. Bán and Mr. El Shafei were elected Vice-Chairmen by acclamation.

12. Mr. Aguilar took the Chair.

13. Mr. ANDO suggested that the Committee might in future wish to reconsider the usefulness of geographical rotation in the selection of members of the

Bureau, since the rigorous application of that rule might not result in the most equitable sharing of opportunities among the members of the Committee.

14. Mr. MAVROMMATIS recalled that the principle of geographical rotation had always been applied flexibly, as a rule of thumb rather than a rigid requirement.

15. Mr. EL SHAFEI said that the matter required serious consideration and should be discussed on a later occasion.

16. Mr. BRUNI CELLI recalled that geographical rotation was an informal understanding born of experience, rather than a written rule, and that in the past it had been applied with flexibility. It was appropriate that each of the regions of the world should have a say.

17. Mr. PRADO VALLEJO agreed that the principle had so far been very useful and positive. It had helped to maintain balance in the Committee and had contributed to the effectiveness of its work. In future, however, consideration could be given to different rules, practices and procedures.

ADOPTION OF THE AGENDA (CCPR/C/104)

18. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS

19. The CHAIRMAN drew attention to the proposed programme of work which had been distributed to Committee members.

20. Mr. MAVROMMATIS, referring to the meeting devoted to communications (follow-up), welcomed the inclusion of follow-up in the programme of work and suggested deleting the word "communications".

21. Mr. ANDO, supported by Mr. BÁN, urged that as much time as possible should be devoted to the consideration of communications.

22. Mr. POCAR noted that the agenda item on action by the General Assembly at its forty-ninth session was not reflected in the proposed programme of work and wondered whether it would be considered during the meeting devoted to working methods.

23. The CHAIRMAN confirmed that it would be.

24. Mr. BRUNI CELLI wondered if more time could be devoted to the discussion of the general comment on article 25.

25. Mr. PRADO VALLEJO and Ms. EVATT said that it might be preferable to carry over consideration of the general comment to the next session in order to give new members an opportunity to participate in the discussion.

26. The CHAIRMAN said he would take it that the Committee wished to adopt the proposed programme of work, incorporating the suggestions made by Mr. Mavrommatis and Mr. Pocar.

27. It was so decided.

Reports of the Chairman of the Working Groups

28. Mrs. HIGGINS (Chairman of the Working Group on Communications) said that, during its meetings the week before, the Working Group had examined 26 communications. It had adopted six recommendations on draft views, five recommendations to declare communications inadmissible and 12 decisions to declare communications admissible. The Working Group had taken two further decisions on admissibility which, on a question of principle, would be brought to the attention of the Committee. It had adopted one recommendation with two alternatives - inadmissibility or a request for further clarification under rule 91 of the rules of procedure. It would take a decision on the admissibility of one remaining communication that week.

29. Mr. BÁN (Chairman of the Working Group on Article 40) said that the Working Group had held a fruitful dialogue with representatives of the specialized agencies. In preparing the list of issues which had been submitted to the Committee for its approval, the Working Group had taken into account information provided by the representatives relating to the initial and periodic reports scheduled for consideration. It had reviewed the working methods of the Committee in the light of the recommendations it had adopted at its sessions prior to the fifty-first and fifty-second sessions of the Committee and the Committee's discussions of 27 October and 3 November 1994 to be issued shortly. The Working Group had concluded its discussion of the draft general comment on article 25 prepared by Ms. Evatt which would be distributed to Committee members.

30. Mr. EL SHAFEI requested additional information on the first-time exchange between the Working Group and the specialized agencies.

31. Mr. BÁN said that the experience had been extremely useful. Representatives of the International Labour Office (ILO), the United Nations High Commissioner for Refugees (UNHCR), the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) had provided the Committee with information on each country whose report was scheduled to be considered by the Committee during the current session. ILO had submitted the relevant information in writing.

List of issues to be taken up in connection with the consideration of reports submitted by States parties under article 40 of the Covenant

Second periodic report of Argentina (CCPR/C/75/Add.1)

Section I

32. Mr. PRADO VALLEJO said that paragraph (b) should also inquire about the number of cases in which compensation had been awarded. Information on specific cases should be provided.

33. Mrs. MEDINA QUIROGA, referring to the same paragraph, wondered about the existence of legislation similar to Act No. 24,043, which provided for compensation to be made to torture victims as well. Paragraph (c) should request information on public awareness about the Under-Secretariat of Human and Social Rights and of the procedure for submitting complaints to it.

34. Mr. EL SHAFEI proposed the addition of the words "and other competent bodies" after "the National Institute of Indigenous Affairs" in section I, paragraph (e).

35. Section I, as orally amended, was adopted.

Section II

36. Mrs. MEDINA QUIROGA said that the regulation concerning pre-trial detention seemed to be contradictory and was inconsistent in some respects with the requirements of due process. She would appreciate additional information on how exactly pre-trial detention worked, and specifically how an individual could be held in pre-trial detention for a period as long as or longer than the period he would have been sentenced if found guilty.

37. Mrs. HIGGINS proposed that Mrs. Medina Quiroga and the Chairman should jointly determine the exact wording of the question and add it to the list.

38. The CHAIRMAN took it that the Committee wished to adopt the section incorporating the suggestion made by Mrs. Medina Quiroga and Mrs. Higgins.

39. Section II was adopted.

Section III

40. Mrs. MEDINA QUIROGA said that the reporting State should clarify whether there was any legal discrimination between men and women in respect of article 76 of the Argentine Code of Criminal Procedure, which stated that a minor's rights could be exercised by his parent or guardian. She also requested further details about the scope of the "effective remedy" mentioned in the second periodic report under article 2, paragraph 3, which seemed only to apply to the situation of those persons who had been placed at the disposal of the Executive or deprived of their freedom as a result of acts by military courts. She took it that her questions could be formulated in cooperation with the Chairman.

41. Mr. ANDO proposed that articles 3 and 26 of the Covenant should be added to the list of articles in parentheses relating to section III.

42. Mr. EL SHAFEI questioned the need for paragraph (b) of section III since the reporting State had fully clarified the point since the submission of its initial report.

43. The CHAIRMAN said that paragraph (b) should be retained since the wording of the original Spanish text was still ambiguous. He took it that the Committee wished to adopt the section incorporating the suggestions made by Mrs. Medina Quiroga and Mr. Ando.

44. Section III was adopted.

Third periodic report of New Zealand (CCPR/C/64/Add.10, HRI/CORE/1/Add.33)

Section I

45. Mr. BRUNI CELLI, supported by Mrs. HIGGINS, said that reporting States were usually asked how they formulated their reports, whether they published them, and whether non-governmental organizations were involved in the process. That procedure had not been followed in the case of New Zealand and should be reflected in a general question about the drafting of the report.

46. Mrs. EVATT proposed using as a model the question contained in section I, paragraph (f), of the list of issues to be raised in connection with the consideration of the second periodic report of Argentina.

47. The CHAIRMAN took it that the Committee wished to adopt the section incorporating the suggestion made by Mrs. Evatt.

48. Section I was adopted.

Section II

49. Section II was adopted.

Section III

50. Section III was adopted.

The meeting rose at 12.55 p.m.